

BRIAN J. STRETCH (CABN 163973)
United States Attorney

BARBARA J. VALLIERE (DCBN 439353)
Chief, Criminal Division

JEFFREY SHIH (CABN 296945)
S. WAQAR HASIB (CABN 234818)
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102-3495
jeffrey.shih@usdoj.gov; 415-436-7168
waqar.hasib@usdoj.gov; 415-436-7261

Attorneys for the United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
ADAM SHAFI,
Defendant.

) CASE NO. 3:15-CR-582-WHO
)
) SECOND AMENDED STIPULATION AND
) PROTECTIVE ORDER
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Pursuant to Federal Rule of Criminal Procedure 16(d), the United States and the defendant, through their respective undersigned counsel, hereby stipulate and agree that the Court should enter this proposed Protective Order¹ requiring that the following restrictions shall apply to the discovery that the United States produces and designates as “Protected Material”:

1. The Indictment charges the defendant with providing material support to a designated foreign terrorist organization, in violation of 18 U.S.C. § 2339B(a)(1). Docket No. 15. In connection with this Indictment, the United States is in possession of electronic surveillance (e.g., recorded

¹ The underlined language in this Protective Order amends the prior Amended Stipulation and Protective Order (Docket No. 63).

1 telephone conversations) between and among the defendant and his associates, some of whom are still
2 under investigation. Additionally, the United States has noticed its intent in this matter to offer into
3 evidence or otherwise use or disclose information obtained or derived from electronic surveillance
4 conducted pursuant to the Foreign Intelligence Surveillance Act of 1978 (FISA), as amended, 50 U.S.C.
5 §§ 1801-1812. Docket No. 19.

6 2. Therefore, as a subset of the discovery produced in this case, the United States may
7 designate the electronic surveillance and other related materials as Protected Material (e.g., Bates-
8 stamped “PROTECTED MATERIAL”). Any Protected Material so designated by the United States
9 shall be subject to the terms of this Stipulation and Protective Order.

10 3. The following individuals (the “Defense Team”) may access and examine the Protected
11 Material under the conditions set forth herein for the sole purpose of preparing the defense and for no
12 other purpose:

- 13 a. counsel for the defendant;
- 14 b. the defendant;
- 15 c. persons employed by defense counsel who are assisting with the
16 preparation of the defense;
- 17 d. any expert retained on behalf of the defendant to assist in the defense of
18 this matter; and
- 19 e. any investigator retained on behalf of the defendant to assist in the defense
20 of this matter.

21 Counsel for the defendant shall advise the individuals on the Defense Team of the requirements and the
22 restrictions in this Stipulation and Protective Order, as well as the Court’s entry of the Protective Order.

23 4. The Defense Team (a) shall maintain the Protected Material in a secure location (e.g.,
24 locked drawer, cabinet, or safe), a secure electronic device (e.g., password-protected computer, memory
25 stick), or for the purpose of allowing the defendant access in preparing his defense, a secure location or
secure electronic device in accordance with the rules and guidelines of the facility housing the

1 defendant, (b) shall maintain a copy of this Stipulation and Protective Order with the Protected Material
2 at all times, and (c) shall not share or give copies to other persons.

3 5. The Defense Team shall not permit other persons access of any kind to the Protected
4 Material. The two exceptions are the following. First, the Defense Team, for the purpose of allowing
5 the defendant access in preparing his defense, may permit the facility housing the defendant to maintain
6 the Protected Material in a secure location or secure electronic device in accordance with the rules and
7 guidelines of that facility. Second, the Defense Team may permit other persons to review the Protected
8 Material if all of the following conditions are met: (a) the Defense Team maintains custody of the
9 Protected Material at all times; (b) the Defense Team is present during the review; and (c) the review is
10 for the sole purpose of preparing the defense and for no other purpose.

11 6. The United States will produce two copies of the Protected Material to the Defense
12 Team. The Defense Team will not make copies of the Protected Material unless (a) the United States
13 provides written concurrence or (b) pursuant to further Court order, such as an order allowing the
14 defendant to use an MP3 player or designated electronic device to review the discovery in the facility
15 housing the defendant. Similarly, the Defense Team shall not publicly offer, file, or lodge any Protected
16 Material unless (a) the United States provides written concurrence, (b) pursuant to further Court order,
17 or (c) it is done under seal.

18 7. Any willful violation of this Stipulation and Protective Order shall constitute a criminal
19 contempt of Court for which sanctions are provided by law.

20 8. This Stipulation and Protective Order shall remain in effect until the Defense Team
21 returns the Protected Material (and any copies) to the United States. The Defense Team shall return the
22 Protected Material (and any copies) to the United States within 30 days of the entry of judgment on all
23 charges, unless a direct appeal is filed, in which case the Defense Team shall complete the return to the
24 United States within 30 days of the date when the direct appeal is finally determined.

9. The parties shall meet and confer regarding any disputes arising under this Stipulation and Protective Order. The parties in this case have negotiated this Stipulation and Protective Order, which does not constitute a concession or waiver by either party regarding discovery procedures generally in this case or in any other or future case.

IT IS SO STIPULATED.

DATED: September 15, 2016

/s/ Galia Amram
GALIA AMRAM
Assistant Federal Public Defender
Counsel for Defendant Adam Sha

BRIAN J. STRETCH
United States Attorney

DATED: September 15, 2016

/s/ Jeffrey Shih
JEFFREY SHIH
S. WAQAR HASIB
Assistant United States Attorneys

1 **PROTECTIVE ORDER**

2 IT IS SO ORDERED that disclosure of the above-described materials shall be restricted pursuant
3 to the stipulation of the parties.

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5 Dated: September 16, 2016

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7 HONORABLE WILLIAM H. ORRICK
8 UNITED STATES DISTRICT JUDGE

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